

# EXHIBIT H

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

JOHNSON CITY ENERGY AUTHORITY  
d/b/a BRIGHTRIDGE,  
Plaintiff/Counter-Defendant,

VS.

UNITED TELEPHONE SOUTHEAST, LLC,  
d/b/a CENTURYLINK,  
Defendant/Counter-Plaintiff.

CASE NO.  
2:20-cv-00030

COMPRESSED COPY

DEPOSITION OF

**ANDREW "ANDY" ICE**

(Taken December 14, 2022)

APPEARANCES:

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ALSO APPEARING:

JEFF DYKES  
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<p>IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE</p> <p>JOHNSON CITY ENERGY AUTHORITY * d/b/a BRIGHTRIDGE, * Plaintiff/Counter-Defendant, * * CASE NO. VS. * 2:20-cv-00030 * UNITED TELEPHONE SOUTHEAST, LLC, * d/b/a CENTURYLINK, * Defendant/Counter-Plaintiff. *</p> <p>DEPOSITION OF ANDREW "ANDY" ICE (Taken December 14, 2022)</p> <p>APPEARANCES: COUNSEL FOR BRIGHTRIDGE: WILLIAM C. BOVENDER JOSEPH B. HARVEY HUNTER, SMITH &amp; DAVIS 1212 North Eastman Road Kingsport, TN 37664 COUNSEL FOR CENTURYLINK: GARY L. EDWARDS BAKER DONELSON 602 Sevier Street, Ste. 300 Johnson City, TN 37604 JEFF DYKES Chief Executive Officer BrightRidge</p> <p>COURT REPORTING AND VIDEO SERVICES P. O. Box 7481 TELEPHONE: (423) 230-8000 Kingsport, TN 37664 REBECCA@COURTREP.NET</p>	<p>1 INDEX OF EXHIBITS (cont.) 2 DEPOSITION OF ANDREW "ANDY" ICE 3 4 EXHIBIT #17: Make-ready request E-mail dated 2/19/19. 5 Page Introduced: 138 6 EXHIBIT #18: Make-ready request E-mail dated 2/19/19. 7 Page Introduced: 140 8 EXHIBIT #19: Make-ready request E-mail dated 2/19/19. 9 Page Introduced: 140 10 EXHIBIT #20: Letter from Ken Edgar to Andy Ice dated 2/20/19. 11 Page Introduced: 144 12 EXHIBIT #21: Letter from Ken Edgar to Andy Ice dated 2/20/19. 13 Page Introduced: 145 14 EXHIBIT #22: Letter from Stacy Evans to Andy Ice dated 15 3/1/19. 16 Page Introduced: 145 17 COLLECTIVE EXHIBIT #26: E-mails dated 8/31/18, 8/30/18, 18 9/12/18, 9/5/18 and invitation for Skype meeting dated 19 9/18/18. 20 Page Introduced: 147 21 22 23 24 25</p>
<p>1 INDEX OF EXHIBITS 2 DEPOSITION OF ANDREW "ANDY" ICE 3 4 EXHIBIT #1: 1980 joint use agreement between Johnson City 5 Power Board and United Inter-Mountain Telephone Company. 6 Page Introduced: 39 7 EXHIBIT #5: Amendment Number Four. 8 Page Introduced: 62 9 EXHIBIT #6: Amendment Number Five. 10 Page Introduced: 65 11 EXHIBIT #7: E-mails dated 9/5/18, 8/31/18, 8/30/18. 12 Page Introduced: 101 13 EXHIBIT #8: E-mails dated 9/12/18, 9/5/18, 8/31/18. 14 Page Introduced: 118 15 EXHIBIT #9: Letter to Andy Ice from Stacy Evans dated 16 11/26/18. 17 Page Introduced: 124 18 EXHIBIT #10: Make-ready request E-mails dated 11/30/18. 19 Page Introduced: 129 20 EXHIBIT #11: Letter to Andy Ice from Stacy Evans dated 21 12/18/18. 22 Page Introduced: 131 23 EXHIBIT #12: Letter from Ken Edgar to Andy Ice dated 24 12/21/18. 25 Page Introduced: 134 26 EXHIBIT #13: Make-ready request E-mail dated 12/21/18. 27 Page Introduced: 136 28 EXHIBIT #14: Letter from Ken Edgar to Andy Ice dated 29 12/21/18. 30 Page Introduced: 136 31 EXHIBIT #15: Make-ready request E-mail dated 12/21/18. 32 Page Introduced: 137 33 EXHIBIT #16: Letter from Ken Edgar to Andy Ice dated 34 12/21/18. Page Introduced: 137</p>	<p>1 CAPTION 2 3 The deposition of ANDREW "ANDY" ICE was taken pursuant to 4 notice in the Johnson City, Tennessee law offices of Baker 5 Donelson beginning at 8:32 a.m. on Wednesday, December 14, 6 2022, for use at any trial, hearing or proceeding involving 7 this matter, and for any purpose allowable by and pursuant to 8 the Federal Rules of Civil Procedure. 9 The witness was sworn by Rebecca Overbey, Licensed Court 10 Reporter in and for the State of Tennessee. It is agreed that 11 Rebecca Overbey, Licensed Court Reporter, may take this 12 deposition by electronic recording equipment; transcribe the 13 same to typewriting, using computer technology; and affix the 14 signature of the witness hereto. 15 All other formalities are waived. 16 17 18 19 20 21 22 23 24 25</p>

1 ANDREW "ANDY" ICE, the witness, having first been duly  
2 sworn, testified as follows:  
3 DIRECT EXAMINATION BY MR. WILLIAM C. BOVENDER:  
4 Q. State your name and current business address for the  
5 record.  
6 A. My name is Andrew Ice. I go by Andy. My work address is  
7 101 North Roan Street here in Johnson City, Tennessee.  
8 Q. Is that the location of the telephone company?  
9 A. Yes, sir.  
10 Q. All right. I'll sometimes call it the telephone company,  
11 sometimes call it CenturyLink. We may even talk about  
12 United Telephone.  
13 A. Okay.  
14 Q. What's your home address?  
15 A. 1700 Fairway Drive here in Johnson City.  
16 Q. Okay. Have you ever been deposed?  
17 A. One time about 20 some odd years ago. It was in Kansas  
18 City. It wasn't anywhere close to here. It was another  
19 job, another issue.  
20 Q. Okay. Have you ever testified in court?  
21 A. No, sir.  
22 Q. If I ask you a question and you don't understand it, just  
23 tell me and I'll restate it.  
24 A. Okay.  
25 Q. If you need a break at any time, let me know and we'll

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1 stop. That probably won't be a problem for you because  
2 I'll probably be stopping and taking breaks before you'll  
3 need them, to be honest with you.  
4 A. All right.  
5 Q. I'm getting over some surgery and I take breaks  
6 frequently. Are you on any kind of medication or  
7 otherwise that would in any way impair your ability to  
8 understand my questions or to answer my questions?  
9 A. No.  
10 Q. Do you know why you're here today?  
11 A. Partly because of a request to attach cables into the data  
12 space on our poles.  
13 Q. All right.  
14 A. And our understanding that isn't what the agreement says.  
15 Q. Okay. Your understanding is that's what the agreement  
16 says, are you referring to the 1980 agreement?  
17 A. Yes, I'm referring to the 1980 agreement.  
18 Q. And who told you that BrightRidge was not supposed to  
19 attach in the data area of the pole?  
20 A. That's what the current agreement between BrightRidge and  
21 ourselves states. It's the agreement for them to have the  
22 top six feet of the pole, a safety separation, and we get  
23 the next four feet.  
24 Q. Okay. What did you do to prepare for your deposition  
25 today?

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1 A. I went back through some old E-mails from the 2018 window  
2 when this started.  
3 Q. Did you get those yourself or were you supplied them?  
4 A. No, those are mine.  
5 Q. Well, did you bring them out yourself or did somebody  
6 instruct you to find them and look at them?  
7 A. No, no one instructed me.  
8 Q. Okay. E-mails in 2018. Anything else?  
9 A. No, just those documents for that window.  
10 Q. Did you review...  
11 A. There was some in 2019 as well. It was that window of the  
12 time I was involved with it until the attorneys got  
13 involved, then I wasn't involved nearly as much.  
14 Q. Okay. Other than speaking with your attorneys in advance  
15 of this deposition, did you speak with anyone else in the  
16 company or former employees of the company about this  
17 deposition?  
18 A. I had a brief conversation with Marcy Buckles. She had  
19 her deposition a week or so ago.  
20 Q. What did she tell you about her deposition?  
21 A. That she was nervous, that she at times got flustered  
22 because she was nervous. She said there were questions  
23 asked about her work career and different titles and  
24 positions she held. There were -- a lot of the questions  
25 she said she didn't have any knowledge of, so there wasn't

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1 anything she could offer or provide. It was a brief  
2 conversation just to see how things went.  
3 Q. Did she discuss with you anything she testified about  
4 relative to the 1980 agreement?  
5 A. No, sir.  
6 Q. Are you nervous today?  
7 A. I'm uneasy.  
8 Q. Okay.  
9 A. It's a new procedure for me, so yeah, I would say maybe a  
10 little nervous.  
11 Q. Well, you need not be nervous.  
12 A. Okay.  
13 Q. This is not a water boarding or anything like that.  
14 A. Right. Once again, it's new and different to me.  
15 Q. We're just asking some questions. It's not like being in  
16 court even. Did you -- have you had occasions to see any  
17 of the transcript of Ms. Buckles' deposition?  
18 A. No, sir.  
19 Q. Have you talked to Andrew Chong about his deposition?  
20 A. No, sir.  
21 Q. How about Josh Freeman?  
22 A. No, sir.  
23 Q. How about Mr. Honeycutt?  
24 A. No, sir.  
25 Q. Did you know that Freeman, and Honeycutt, and Chong had

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1 their poles in their service territory after you came back  
2 in 2008?  
3 A. That wouldn't have been until 2019.  
4 Q. Were there telephone company -- BrightRidge attachments on  
5 the telephone company poles in the power company service  
6 territory when you came back in 2008?  
7 A. There was -- in the electric zone, there was that fiber  
8 that I mentioned before to connect their substations.  
9 Q. Yeah.  
10 A. And that was the only thing that I was aware of.  
11 Q. All right. And were you also working with BTES when you  
12 came back?  
13 A. I did have some interactions with BTES, yes, sir.  
14 Q. Did BTES have any type of fiber internet attachments on  
15 its poles when you came back in 2008?  
16 MR. EDWARDS: Let me just state a continuing objection, and it  
17 will be continuing for the deposition, related to  
18 questions related to any other attachers outside of the  
19 BrightRidge service territory for the reasons previously  
20 circulated in E-mails and discussed with counsel.  
21 Q. Okay. Thank you.  
22 A. I was told that they were deploying fiber and they were  
23 placing it in the power zone.  
24 Q. Okay. Was there any other TVA distributor in the area you  
25 had responsibility for that was doing the same thing that

25

1 you can remember in 2008?  
2 A. Not in 2008, no, sir.  
3 Q. Okay. You've mentioned your fiber attachments. What kind  
4 of fiber attachments did you have in 2008 when you came  
5 back on your poles or the poles of the power board?  
6 A. It varied in size depending on when they were initially  
7 deployed. It could have been anything from a 6 fiber, to  
8 a 12 fiber, to a 24, to a 48, to a 144, 72. We had all  
9 sizes.  
10 Q. Was that an overlashing situation or were they in a  
11 separate cable that was an additional attachment to your  
12 copper attachments on those poles that belonged to the  
13 power board?  
14 A. We had both. We had both overlashing and separate  
15 attachments.  
16 Q. Okay. Now, let's talk a little bit about BVU, subject to  
17 Mr. Edwards' objection. When you came back, are you aware  
18 in 2008 that BVU had internet connections in the telephone  
19 zone?  
20 A. I was not aware of it. I heard they had deployed fiber,  
21 but I was not aware where the fiber was placed on the  
22 poles.  
23 Q. At what point in time did you learn that they -- that BVU  
24 had placed internet connections in the telephone zone?  
25 A. That wasn't until several years later.

26

1 Q. How do you define several years?  
2 A. Probably the 2013 window or 2014 window. It was several  
3 years later. I didn't realize that they were in the data  
4 zone.  
5 Q. What did you learn about their internet connections in the  
6 telephone zone?  
7 A. I learned that's where they had attached their cables was  
8 in the data zone. I asked questions about why they were  
9 in the data zone and how they received permission to be in  
10 the data zone. There was -- the people who had made those  
11 arrangements had all retired and left, so I didn't get  
12 good replies to my questions.  
13 Q. Did you take it upon yourself to do any additional  
14 investigation?  
15 A. I did some. I asked our administrators of our joint use  
16 poles if there had been permission granted for them to be  
17 in the data zone. I asked...  
18 Q. And what was the answer to that question?  
19 A. They didn't have an answer for me. Either A, the people I  
20 talked to weren't aware of it, or B, had not granted  
21 permission.  
22 Q. How did you make that assumption?  
23 A. They told me they didn't have any information about it or  
24 they told me that they had not granted permission. There  
25 was nothing in the contract that we had with them that

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1 changed that would allow them to do so.  
2 Q. Okay. Who were you talking to?  
3 A. Several different people. Some of them are retired. Some  
4 of them are still here. Ryan Sikes was one that I spoke  
5 with.  
6 Q. All right.  
7 A. And he'll -- I guess you've got him lined up for some  
8 discussions next time or -- I don't know when. I heard  
9 his name was on the list. I don't know if you're going to  
10 talk to him or not.  
11 Q. So you had conversations with Ryan Sikes about the BVU  
12 internet attachments in the telephone zone when you came  
13 back.  
14 A. Uh-huh (Affirmative).  
15 Q. Have you had any conversations with Ryan Sikes recently?  
16 A. Not about that topic.  
17 Q. How do you know about his deposition?  
18 A. I'm sorry? He told me yesterday that he was on the list.  
19 Q. Okay.  
20 A. I'm sorry, I didn't mean to point. I apologize.  
21 Q. Well, did you take -- attempt to take any action against  
22 BVU for the attachments they made in the telephone space?  
23 A. That's still something we're investigating. That's not  
24 something that's concluded.  
25 Q. Well, you're aware that BVU no longer owns -- they sold

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1 that off. You're aware of that, aren't you?  
2 A. I had heard that, but that was only recent information  
3 that I received.  
4 Q. Who gave you that information?  
5 A. Actually, Mr. Bowman, the chairman at BVU. I was on the  
6 phone with him about some things and he mentioned that  
7 they don't own that service anymore.  
8 Q. Don Bowman, is that who you're talking about?  
9 A. Yes, sir.  
10 Q. So you didn't know that that had been sold off?  
11 A. No, sir.  
12 Q. Have you had very much communications with Stacy Evans who  
13 was at BVU and is now at BrightRidge?  
14 A. When he was at BVU, no, I don't remember any  
15 conversations. Since he's been at BrightRidge, it got  
16 started in August of '18. Counting forward, I've had  
17 conversations -- probably more communications in that fall  
18 window of '18 and then after the January, February, March  
19 window of '19. Then it kind of dried up again and I guess  
20 I haven't had as much conversations.  
21 Q. Did you, yourself, initiate any activity to force BVU to  
22 pay any additional fees because their internet was  
23 attached in the telephone zone?  
24 A. I asked some questions about it, but I didn't -- but I  
25 didn't take any action or force any action to be taken. I

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1 don't -- I'm not involved in the billing, so I don't have  
2 any responsibility for that. That's taken care of by  
3 others. I can bring it to their attention. I can request  
4 that they look into it, but I can't bill anyone.  
5 Q. So however they got there, they got there, and that  
6 remained the status quo until they were sold off to  
7 somebody else. Is that correct?  
8 A. I guess I'm trying to make sure I understand your  
9 statement. How it got there, I don't know. I wasn't  
10 involved with that.  
11 Q. Okay.  
12 A. When it was sold off, yeah, now there's a different entity  
13 that probably -- I say probably. I assume there's an  
14 agreement with that company to have attachments with us  
15 and those attachments would be covered underneath that  
16 agreement.  
17 Q. Did you ever review the agreement between BVU and the  
18 telephone company, the original agreement?  
19 A. No, sir.  
20 Q. After you -- when you came back, bring me up to date now  
21 on what jobs you've held since you came back in 2008.  
22 A. I was manager of engineering, as I mentioned, of...  
23 Q. Outside.  
24 A. ...outside plant. Then I picked up additional  
25 responsibilities. I picked up western North Carolina,

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1 South Carolina, and Georgia. That lasted until the end of  
2 '14. In 2014, I switched jobs to take care of our core  
3 network. That was taking care of all of the essential  
4 office equipment from Texas to Jersey. I was in that job  
5 until the spring of '17. Then I came back to running the  
6 outside plant and the core network for..  
7 Q. What network?  
8 A. Core, our central office core network that connects all  
9 our central offices. I had that job, let's see, probably  
10 until -- well, until current. I have added and subtracted  
11 pieces and parts since, but it's essentially been the  
12 same. I've had outside plant and core for those states  
13 since 2017.  
14 Q. Outside what?  
15 A. Outside plant.  
16 Q. Plant.  
17 A. OSP, outside plant.  
18 Q. Okay. And is that your current job?  
19 A. Yes, sir.  
20 Q. And you say it's for what states?  
21 A. I have Tennessee, South Carolina, and Georgia.  
22 Q. Who has Virginia?  
23 A. That's taken care of by one of my peers that has all of  
24 the state of Virginia.  
25 Q. What about western North Carolina?

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1 A. That's taken care of by another peer that has -- there's  
2 three different managers in North Carolina that take care  
3 of those areas.  
4 Q. Was Mr. Sikes here when you came?  
5 A. No, sir.  
6 Q. Has he always been in the Carolinas?  
7 A. Yes, sir, as far as I know. I mean, I don't know where  
8 he's lived, but my interactions with him were when he was  
9 in North Carolina.  
10 Q. And when you say the Carolinas, are you talking about  
11 United Telephone of the Carolinas?  
12 A. I was talking about North Carolina itself. I don't know  
13 the entity he was working for or with or a subsidiary. I  
14 just know he lived in the Carolinas.  
15 Q. Okay. When you had responsibility for western North  
16 Carolina, did that include Central Telephone?  
17 A. Central Telephone?  
18 Q. Yeah. Have you ever heard of that?  
19 A. No, sir.  
20 Q. Okay. I'm sorry, this may be a duplicate question. I  
21 don't remember your answer. Did you -- I want to ask you  
22 again to make sure. Have you ever seen the original  
23 contract between BVU and the telephone company?  
24 A. I've never read it, no, sir.  
25 Q. Okay. Have you read any amendments, if any, that there

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<p>1 Q. Okay.</p> <p>2 A. So Ryan checked with his peers, as I mentioned, and this</p> <p>3 is one of the replies.</p> <p>4 Q. So you're referring to Page CL491.</p> <p>5 A. Yes, sir.</p> <p>6 Q. Donnie response.</p> <p>7 A. Uh-huh (Affirmative).</p> <p>8 Q. Did you ever discuss this with Donnie?</p> <p>9 A. I did not.</p> <p>10 Q. So was he on the Skype call or anything like that? Where</p> <p>11 did that come from?</p> <p>12 A. I don't -- his name is on it, I think. Donnie response.</p> <p>13 I think that's the same Donnie, but I don't see a last</p> <p>14 name here, so...</p> <p>15 Q. Okay.</p> <p>16 A. ...I'm not entirely sure.</p> <p>17 Q. All right.</p> <p>18 A. I can't tell you if he was on that call or not. I don't</p> <p>19 remember discussing it.</p> <p>20 Q. Have you been shown a document -- an expert report</p> <p>21 document from a David Brevitz?</p> <p>22 A. That name is not familiar to me, no.</p> <p>23 Q. Okay. Let me talk with Mr. Harvey here for just a minute.</p> <p>24 A. Okay, sure.</p> <p>25 ***OFF THE RECORD***</p> <p>153</p>	<p>C E R T I F I C A T E</p> <p>I, Rebecca Overbey, Licensed Court Reporter in and for the State of Tennessee, do hereby certify that the foregoing deposition of ANDREW "ANDY" ICE was taken at the time and place and for the purpose as stated in the Caption; that the witness was duly sworn by me before deposing; that the said deposition was recorded electronically and was later transcribed to typewriting, using computer technology; and that the foregoing is a true and accurate transcript of the proceedings to the best of my knowledge, ability and understanding.</p> <p>WITNESS my hand and official seal at my office in Kingsport (Sullivan County) Tennessee on this the 28th day of December, 2022.</p> <p>Rebecca Overbey LICENSED COURT REPORTER State of Tennessee LCR #078</p> <p>My License Expires: June 30, 2024</p> <p>***CERTIFIED ONLY IF AFFIXED SEAL IS GREEN***</p> <p>155</p>
<p>1 DIRECT EXAMINATION CONTINUES BY MR. BOVENDER:</p> <p>2 Q. The Donnie we were talking about...</p> <p>3 A. Uh-huh (Affirmative).</p> <p>4 Q. Did you discuss Donnie's reply with anybody?</p> <p>5 A. No.</p> <p>6 Q. Did Donnie discuss his reply with you?</p> <p>7 A. No.</p> <p>8 Q. Who shared in Donnie's reply, if you recall? It doesn't</p> <p>9 seem to be documented.</p> <p>10 A. Who shared -- I'm sorry?</p> <p>11 Q. Who else saw Donnie's reply?</p> <p>12 A. Oh, I don't know. I mean, the note was from Andrew, I</p> <p>13 assume, so I don't know who he shared it with.</p> <p>14 Q. Okay. Do you have anything? Okay. That is all.</p> <p>15 A. That's it? Okay.</p> <p>16 Q. Thank you very much.</p> <p>17 A. Thank you. I appreciate it.</p> <p>18 AND FURTHER THE DEPONENT SAITH NOT.</p> <p>19</p> <p>20</p> <p>21</p> <p>22 BY: Rebecca Overbey</p> <p>23 Licensed Court Reporter</p> <p>24</p> <p>25</p> <p>154</p>	<p>EXHIBIT #1: 1980 joint use agreement between Johnson City Power Board and United Inter-Mountain Telephone Company.</p> <p>Page Introduced: 39</p> <p>EXHIBIT #5: Amendment Number Four.</p> <p>Page Introduced: 62</p> <p>EXHIBIT #6: Amendment Number Five.</p> <p>Page Introduced: 65</p> <p>EXHIBIT #7: E-mails dated 9/5/18, 8/31/18, 8/30/18.</p> <p>Page Introduced: 101</p> <p>EXHIBIT #8: E-mails dated 9/12/18, 9/5/18, 8/31/18.</p> <p>Page Introduced: 118</p> <p>EXHIBIT #9: Letter to Andy Ice from Stacy Evans dated 11/26/18.</p> <p>Page Introduced: 124</p> <p>EXHIBIT #10: Make-ready request E-mails dated 11/30/18.</p> <p>Page Introduced: 129</p> <p>EXHIBIT #11: Letter to Andy Ice from Stacy Evans dated 12/18/18.</p> <p>Page Introduced: 131</p> <p>EXHIBIT #12: Letter from Ken Edgar to Andy Ice dated 12/21/18.</p> <p>Page Introduced: 134</p> <p>EXHIBIT #13: Make-ready request E-mail dated 12/21/18.</p> <p>Page Introduced: 136</p> <p>EXHIBIT #14: Letter from Ken Edgar to Andy Ice dated 12/21/18.</p> <p>Page Introduced: 136</p> <p>EXHIBIT #15: Make-ready request E-mail dated 12/21/18.</p> <p>Page Introduced: 137</p> <p>EXHIBIT #16: Letter from Ken Edgar to Andy Ice dated 12/21/18.</p> <p>Page Introduced: 137</p> <p>156</p>